

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3321

By: Mitchell

AS INTRODUCED

An Act relating to blind persons; amending 7 O.S. 1991, Sections 71, as amended by Section 1, Chapter 89, O.S.L. 1997, 72, as amended by Section 2, Chapter 89, O.S.L. 1997, 75, as amended by Section 6, Chapter 89, O.S.L. 1997 (7 O.S. Supp. 1997, Sections 71, 72 and 75), which relate to blind vendors; clarifying purpose; expanding assistance; requiring maximization of job opportunities; modifying definitions; removing certain depositing requirements; amending 63 O.S. 1991, Sections 2701 and 2702, which relate to certain reports; updating language; amending 74 O.S. 1991, Section 929, which relates to the Oklahoma Public Employees Retirement System, Section 1317, which relates to certain health insurance plan, dental insurance plan and life insurance plan; updating language; removing utilization of certain funds requirements; repealing 7 O.S. 1991, Sections 21, as amended by Section 8, Chapter 89, O.S.L. 1997, 74, as amended by Section 4, Chapter 89, O.S.L. 1997 and 77, as amended by Section 5, Chapter 89, O.S.L. 1997 (7 O.S. Supp. 1997, Sections 21, 74 and 77), which relate to the Adult Blind Commissary Fund;

expenditures and deposits to the fund; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 7 O.S. 1991, Section 71, as amended by Section 1, Chapter 89, O.S.L. 1997 (7 O.S. Supp. 1997, Section 71), is amended to read as follows:

Section 71. ~~The~~ A. For purposes of assisting blind persons to become self supporting, the State Department of Rehabilitation Services is hereby authorized to carry on activities to promote ~~the employment of~~ business opportunities for individuals who are blind, including, but not limited to, the licensing and establishment of such persons as operators of vending facilities in public and other buildings. Facilities shall maximize job opportunities for other persons who are blind.

B. The Department shall be the sole state licensing agency for the purpose of implementing and carrying out the provisions of the Act of Congress known as the Randolph-Sheppard Act (20 USCA Sections 107-107f), and amendments thereto, providing for the licensing of individuals who are blind to operate vending facilities in federal buildings, or any other Acts of Congress which may be hereafter enacted. Provided, that no game of chance or gambling machine shall be operated. The Division of Visual Services of the Department shall administer this program.

SECTION 2. AMENDATORY 7 O.S. 1991, Section 72, as amended by Section 2, Chapter 89, O.S.L. 1997 (7 O.S. Supp. 1997, Section 72), is amended to read as follows:

Section 72. For purposes of ~~Sections 1 through 8~~ Chapter 4 of this ~~act~~ title:

1. "Vending facility" means automatic vending machines, cafeterias, snackbars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, food, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws;

2. "Net proceeds" means the amount remaining from the sale of articles or services of vending facilities, and any vending machine or other income accruing to blind vendors after deducting the cost of such sale and other expenses, excluding set-aside charges required to be paid by such vendors ~~and wages paid to employees;~~

3. "Blind person" means a person having a visual acuity not to exceed 20/200 in the better eye, with correcting lenses, or visual acuity greater than 20/200 but with limitation in the field of vision such that the widest diameter of visual field subtends an angle no greater than twenty degrees (20°); and

4. "Satisfactory site" means an area fully accessible to vending facility patrons, with sufficient electrical, plumbing, heating, and ventilation outlets for the location and operation of a vending facility in accordance with applicable health laws and building codes, to contain space necessary for proper vending facility service.

SECTION 3. AMENDATORY 7 O.S. 1991, Section 75, as amended by Section 6, Chapter 89, O.S.L. 1997 (7 O.S. Supp. 1997, Section 75), is amended to read as follows:

Section 75. A. Every vending facility operator shall be required to pay monthly into the set-aside fund as provided for in the Randolph-Sheppard Act (20 U.S.C., Section 107.b(3)). The Department is hereby authorized to fix the amount to be paid by such operator, which amount shall be based upon the performance of the

facility and the ability of the operator to pay. The amount shall be on a sliding scale of zero percent (0%) to not more than twelve percent (12%) of the net proceeds of the vending facility during any one (1) month, and shall be paid to the Department.

B. Any operator who is furnished an initial stock of merchandise by the Department shall be required to reimburse the Department for all amounts so expended. Such reimbursement shall be payable in monthly installments of not less than two percent (2%) nor more than five percent (5%) of the gross sales of the vending facility during any one (1) month, until all amounts expended by the Department for such purpose are repaid in full.

~~C. All amounts received by the Department under the provisions of this section shall be deposited by the Department in the Adult Blind Commissary Fund.~~

SECTION 4. AMENDATORY 63 O.S. 1991, Section 2701, is amended to read as follows:

Section 2701. It is declared to be the public policy of this state, in order to safeguard the public health, safety and welfare, to encourage certain knowledgeable persons to make written report to the Division of Visual Services of the Department of ~~Institutions, Social and Rehabilitative~~ Rehabilitation Services as to individuals suffering from blindness or serious visual impairment so that said Division of Visual Services may inform them as to rehabilitative education and training programs of the state.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 2702, is amended to read as follows:

Section 2702. Any licensed surgeon, medical doctor, osteopathic physician, optometrist, dentist, intern or registered nurse who, from attending or examining an individual, concludes that such individual is blind or visually impaired to a material and uncorrected extent, and in good faith participates in the making of written report of said conclusion to the Division of Visual

Services, Department of ~~Institutions, Social and Rehabilitative~~ Rehabilitation Services, shall have immunity from liability, civil and criminal, for so reporting.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 929, is amended to read as follows:

Section 929. Any person who is licensed by the ~~Commission for Human~~ Department of Rehabilitation Services as a vending stand operator or managing operator shall be eligible for membership in the Oklahoma Public Employees Retirement System established by Sections 901 through 928 of this title. Enrollment in the System shall be optional with each operator under regulations prescribed by the Oklahoma Public Employees Retirement System Board of Trustees. Persons who elect to participate in the Oklahoma Public Employees Retirement System pursuant to the provisions of this section shall be considered as state employees only for retirement purposes and shall make contributions pursuant to the provisions of Section 919.1 of this title. Any payment or contributions to be made for members of the System shall be payable by the operator in such manner as may be determined by the ~~Commission for Human~~ Department of Rehabilitation Services, and shall not be a responsibility or liability of the Department of ~~Human~~ Rehabilitation Services ~~or the Commission for Human Services~~; provided, that the ~~Commission~~ Department may, in its discretion, make all or a part of such payments, ~~and may utilize the Adult Blind Commissary Fund created by Section 74 of Title 7 of the Oklahoma Statutes, for such purpose.~~

SECTION 7. AMENDATORY 74 O.S. 1991, Section 1317, is amended to read as follows:

Section 1317. Any legally blind person who is licensed by the ~~Oklahoma Public Welfare Commission~~ Department of Rehabilitation Services as a vending stand operator or managing operator shall be eligible for membership in the Health Insurance Plan, Dental Insurance Plan and Life Insurance Plan referred to in the State and

Education Employees Group Insurance Act, ~~Section 1301 et seq. of this title.~~ Enrollment in the Plan shall be optional with each operator ~~under~~ pursuant to the regulations rules prescribed by the State and Education Employees Group Insurance Board. Any payments required to be made for enrollees in the Plan shall be payable by the operator in such manner as may be determined by the ~~Oklahoma Public Welfare Commission~~ Department of Rehabilitation Services; provided, that the ~~Commission~~ Department may, in its discretion, make all or a part of such payments, ~~and may utilize the Concession Stand Revolving Fund created by Section 74 of Title 7 of the Oklahoma Statutes,~~ for such purpose.

SECTION 8. REPEALER 7 O.S. 1991, Sections 21, as amended by Section 8, Chapter 89, O.S.L. 1997, 74, as amended by Section 4, Chapter 89, O.S.L. 1997, and 77, as amended by Section 5, Chapter 89, O.S.L. 1997 (7 O.S. Supp. 1997, Sections 21, 74 and 77), are hereby repealed.

SECTION 9. This act shall become effective July 1, 1998.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-9355

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